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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,263	10/23/2003	Andrew J. Toti	50604	9072
7590	09/19/2005			
PHILIP A. DALTON 236 WEST PORTAL AVE. No. 15 SAN FRANCISCO, CA 94127-1423				EXAMINER HANSEN, COLBY M
				ART UNIT 3682 PAPER NUMBER

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/693,263	TOTI, ANDREW J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Colby Hansen	3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>03222004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 4-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/17/2005.

Applicant's election of group I in the reply filed on 8/17/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "securing means", as claimed in claim 3, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, applicant claims “a first upper section or collar” and “a second lower section or tube”. It is unclear what the metes and bounds are of the claim as the “or” makes four different breadth of limitations possible.

Also in claim 3, applicant claims a “securing means”. As discerned by the specification the operator, in essence, is the “securing means”, thus it is unclear how applicant can positively recite the operator as part of the invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan (US Pat. 361,227).

Morgan (US Pat. 361,227) discloses a plural stroke control rod mechanism, comprising a rotatable shift; a rod A having spiral convolution; means connected the rod to the shaft for rotating the shaft and rod together; and a handle device, comprising a stepped cylinder G (fig. 2) comprising a first upper section of collar and a second lower section of tube having a bottom end; the outer diameter of the collar cylinder having a longitudinal axis and having an internal axially-extending bore mounting the stepped cylinder along the rod from rotation along the spiral convolutions of the rod; a handle E, F, comprising a member having upper and lower ends, a longitudinal axis and an axial bore therein extending to the upper and lower ends thereof, the member rotatably mounting the tube of the stepped cylinder therein with the relatively large diameter collar protruding from and rotatably seated along the upper end of the member (fig. 1); the stepped cylinder being of sufficient length such that the bottom end thereof protrudes from the bottom end of the bore of the member; and means securing H the lower end of the stepped cylinder to the member such that the stepped cylinder is rotatably captured to the member between the collar member and the securing means.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Schuermann (US Pat. 407,842).

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Schuermann (US Pat. 407,842) discloses a plural stroke control rod mechanism, comprising a rotatable shift; a rod 12 having spiral convolution; means connected the rod to the shaft for rotating the shaft and rod together; and a handle device, comprising a stepped cylinder 13 comprising a first upper section of collar and a second lower section of tube having a bottom end; the outer diameter of the collar cylinder having a longitudinal axis and having an internal axially-extending bore mounting the stepped cylinder along the rod from rotation along the spiral convolutions of the rod; a handle 14 comprising a member having upper and lower ends, a longitudinal axis and an axial bore therein extending to the upper and lower ends thereof, the member rotatably mounting the tube of the stepped cylinder therein with the relatively large diameter collar protruding form and rotatably seated along the upper end of the member; the stepped cylinder being of sufficient length such that the bottom end thereof protrudes from the bottom end of the bore of the member; and means 15 securing the lower end of the stepped cylinder to the member such that the stepped cylinder is rotatably captured to the member between the collar member and the securing means.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Burks (US Pat. 2,320,119).

Burks (US Pat. 2,320,119) discloses a plural stroke control rod mechanism, comprising a rotatable shift; a rod **a** having spiral convolution; means connected the rod to the shaft for rotating the shaft and rod together; and a handle device, comprising a stepped cylinder **f** comprising a first upper section of collar and a second lower section of tube having a bottom end; the outer diameter of the collar cylinder having a longitudinal axis and having an internal

axially-extending bore mounting the stepped cylinder along the rod from rotation along the spiral convolutions of the rod; a handle i comprising a member having upper and lower ends, a longitudinal axis and an axial bore therein extending to the upper and lower ends thereof, the member rotatably mounting the tube of the stepped cylinder therein with the relatively large diameter collar protruding form and rotatably seated along the upper end of the member; the stepped cylinder being of sufficient length such that the bottom end thereof protrudes from the bottom end of the bore of the member; and means securing the lower end of the stepped cylinder to the member such that the stepped cylinder is rotatably captured to the member between the collar member and the securing means.

#### ***FACSIMILE TRANSMISSION***

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(571) 273-8300**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MEP. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

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Responses submitted by facsimile transmission should include a Certificate of Transmission (MEP. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on \_\_\_\_\_

(Date)

Typed or printed name of person signing this certificate:

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(Signature)

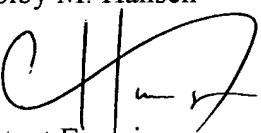
If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MEP. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colby Hansen whose telephone number is (571) 272-7105. The examiner can normally be reached on Monday through Thursday and every other Friday from 7:30 PM to 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chuck Marmor, can be reached on (571) 272-7095. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Colby M. Hansen

  
9/14/05  
Patent Examiner

  
DAVID FENSTERMACHER  
PRIMARY EXAMINER  
9/14/05